



INFORMATION BULLETIN 05

RESIDENCES IN THE ALR

Revised: June 1, 2022
December 31, 2021,
December 2, 2021,
April 26, 2021,
March 18, 2021,
January 28, 2020,
August 12, 2019,
May 8, 2019,
February 26, 2019
Issued: February 25, 2019

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1. SCOPE OF THIS INFORMATION BULLETIN

This information bulletin provides guidance to assist in interpreting the *Agricultural Land Commission Act, S.B.C. 2002, c. 36 (ALCA)* and the *Agricultural Land Reserve Use Regulation (the ALR Use Regulation)*, in relation to residences in the agricultural land reserve (ALR). The ALCA and ALR Use Regulation will govern if inconsistent with this bulletin.

This information bulletin is directed only to interpretation of the ALCA and the ALR Use Regulation. All other applicable laws, regulations and bylaws related to residential uses must also be complied with.

2. RECENT CHANGES TO STATUTE AND REGULATIONS

Effective February 22, 2019, the ALCA was amended and the ALR Use Regulation was created. Though many concepts contained in the ALCA and its regulations are unchanged from the past, there have been changes to the use of ALR land for residences.

The ALR Use Regulation was amended on July 5, 2019 to temporarily permit manufactured homes for family members subject to specific criteria. On April 26, 2021, the ALR Use Regulation was amended again to extend the time period criteria to December 31, 2021 (refer to section 6 below).

The ALR Use Regulation has been further amended, effective December 31, 2021, to permit the construction of one *additional residence* per parcel, subject to specific criteria (refer to section 5, below) and to end the prior permission under the ALR Use Regulation for manufactured homes for family members.

The following is a summary of key residential changes to the ALCA and the ALR Use Regulation resulting from the February 22, 2019, July 5, 2019 and April 26, 2021 amendments as well as the changes that took effect on December 31, 2021:

- Generally, land in the ALR may have **no more than one residence** per parcel: ALCA, s. 20.1(1)(a), subject to certain grandfathering exceptions. Further, as of December 31, 2021, land in the ALR may have **one additional residence** per parcel if there is only one residence on the parcel when construction begins, and additional conditions set out in the regulation are also met: ALR Use Regulation, s. 34.3.
- Effective December 31, 2021, the ALR Use Regulation, s. 34.3 permits one additional residence if the following conditions are met:
 - At the time construction of the additional residence begins there is only one residence on the parcel; and
 - On a property 40 ha or less , once constructed there will be a principal residence with total floor area of 500 m² or less and one residence with a total floor area of 90 m² or less, if permitted by local government bylaw; OR
 - On a property larger than 40 ha, where there is a lawfully constructed principal residence*, one 186 m² additional residence may be permitted, (if permitted by local government bylaw.

*a lawfully constructed principal residence refers to a residence that pre-dates the legislative changes made on February 22, 2019 under Bill 52 or a residence larger than 500 m² as approved by the ALC and constructed with appropriate authorizations.

- In addition, the Commission may approve an application for an *additional residence* if necessary for *farm use*: ALCA, s. 25(1.1).
- New size, siting and use requirements apply to *residential structures*: ALCA, s. 20.1(1)(c).
- The ***total floor area of a principal residence must be 500 m² or less*** in order to comply with the ALCA, though a local government or First Nation Government may impose a lower size cap under its bylaws: ALCA, ss. 20.1(1)(b), 46. The Commission has resolved on a definition of "*total floor area for principal residences*" for the purpose of the ALCA and ALR Use Regulation, as set out in the "Glossary" section at the end of this bulletin.
- The ***total floor area of an additional 90 m² or 186 m² residence constructed after December 31, 2021 must be 90 m² or less if the parcel is 40 ha or less, and 186 m² or less if the parcel is more than 40 ha***, in order to comply with the ALR Use Regulation, though a local government or First Nation Government may impose a lower size cap under its bylaws: ALR Use Regulation, s. 34.3. Further, an *additional residence* may only be constructed if the size of the *principal residence* is within limits set by the ALR Use Regulation and the ALCA. The Commission has resolved on a definition of "*total floor area of additional 90 m² or 186 m² residence*" permitted in the ALR Use Regulation, as set out in the "Glossary" section at the end of this bulletin.
- The regulations had previously contained provisions facilitating the construction of manufactured homes for immediate family members, accommodation above an existing farm building, or (in parts of the province) a second single family dwelling. These provisions are no longer found in the ALCA and the ALR Use Regulation, with the exception of some grandfathering protection for pre-existing structures of these kinds. See the "Grandfathering Provisions" section of for more information. In addition, the Commission may approve an application for these kinds of *additional residences* if **necessary for farm use**.
- If a landowner wishes in the absence of certain grandfathering exceptions to have a *principal residence* having a total floor area that is more than 500 m², to have an *additional residence* having a total floor area that is more than permitted by the ALR Use Regulation, to have a second *additional residence*, or to use a *residential structure* in a manner that contravenes the regulations, the landowner may submit an application to the Commission, through the local government or First Nation Government, seeking Commission approval: ALCA, ss. 20.1(2), 25. The ALCA calls this type of application an "**application for a non-adhering residential use**". More information about this type of application is provided later in this bulletin under the heading "Applications for Non-

Adhering Residential Use".

3. ROLE OF LOCAL GOVERNMENTS AND FIRST NATION GOVERNMENTS

A. Role as Approving Body

I. Principal Residence

In order to comply with the ALCA, an approving body such as a local government or a First Nation Government may not approve or permit construction or alteration of a *principal residence* on ALR land unless the *principal residence* has a total floor area of 500 m² or less and is sized, sited and used in accordance with the ALR Use Regulation, or is permitted by the Commission on application: ALCA, s. 18. See the Section 12 "Glossary", found at the end of this bulletin, for the definition of "*total floor area for a principal residence*".

II. Additional Residence

An approving body may not approve or permit construction or alteration of an *additional residence* on ALR land unless the additional residence is 90 m² or less if the parcel is 40 ha or less, and 186 m² or less if the parcel is more than 40 ha, and the size of the *principal residence* is within limits set by the ALR Use Regulation or is approved by the Commission on application: ALCA s. 18. See the Section 12 "Glossary", found at the end of this bulletin, for the definition of "*total floor area of an additional 90 m² or 186 m² residence*".

B. Applications

An application to the Commission asking it to approve a *non-adhering residential use*, such as new construction of a *principal residence* with a total floor area of more than 500 m² or an *additional residence* not permitted by the ALR Use Regulation, must be submitted through the landowner's local government or First Nation Government. For more information on the process for making applications to the Commission, please see the Commission's website, at www.alc.gov.bc.ca/alc/content/applications-and-decisions as well as Section 11 of this information bulletin entitled "*Applications For Non-Adhering Residential Use*".

C. Consistency with Zoning and Other Bylaws

Any portion of a local government bylaw or First Nation Government law that purports to allow a use of land in the ALR that is not permitted under the ALCA or the ALR Use Regulation, or contemplates a use of land that would impair or impede the intent of the ALCA or the ALR Use

Regulation, is inconsistent with the ALCA or the ALR Use Regulation and has no force or effect: ALCA, ss. 46(4), (5).

For example, **if a zoning bylaw provides for more residences on ALR land than do the ALCA and the ALR Use Regulation, its provision for extra residences is of no force or effect and cannot be relied on.**

Construction, alteration or use of any residences in contravention of the ALCA or the ALR Use Regulation may be subject to compliance and enforcement action even if the construction, alteration or use seems to be in compliance with a local government bylaw or First Nation Government law.

D. Local Government or First Nation Government May Restrict

Local government bylaws or First Nation Government laws can be more restrictive of residential use of the ALR than the ALCA: ALCA, s. 46(6). The ALR Use Regulation identifies certain designated *farm uses* and permitted *non-farm uses* that local governments or First Nation Governments must not prohibit, but places no limitation on local government or First Nation Government powers to prohibit or otherwise restrict residential uses of ALR land. **As such, a local government or First Nation Government may impose restrictions on sizing, siting and use of residences on ALR land additional to those found in the ALCA.** For example, a local government or First Nation Government could enact a bylaw/law imposing a size limit smaller than 500 m² total floor area on *principal residences* on ALR land.

E. Areas Without Zoning Bylaws

Some areas of the province do not have zoning bylaws. The absence of local zoning bylaws does not relieve a landowner from complying with the restrictions in the ALCA and ALR Use Regulation.

4. NEW CONSTRUCTION OF A RESIDENCE ON ALR LAND THAT HAS NO EXISTING RESIDENCE

No application is required to the Commission in order to *construct* a residence with a total floor area of 500 m² or less on a parcel of ALR land which has **no existing residence** (a “**vacant parcel**”).

The Commission will consider the residence when built on a vacant parcel to be the “*principal residence*”.

If the proposed *principal residence* is more than 500 m², in order to *construct* the residence the landowner must first apply to the Commission through the local government or First Nation Government and obtain permission from the Commission: ALCA, s. 20.1(1).

“*Construct*” includes “to build a new structure” or “to place on land a new structure that is fully or partially pre-fabricated”: ALCA, s. 1(1).

5. NEW CONSTRUCTION OF A RESIDENCE AFTER DECEMBER 31, 2021 WHERE THERE IS AN EXISTING RESIDENCE

No application is required to the Commission in order to *construct* an *additional residence* for which construction begins after December 31, 2021 if:

- a. at the time that construction begins, the parcel has located on it only one residence, whether or not a permitted secondary suite is located in the residence;
- b. neither residence will be attached to, nor be part of, the other residence;
- c. when constructed, one of the following applies to the residences:
 - i. if the parcel is 40 ha or less, there will be:
 1. one residence, the total floor area of which is 500 m² or less; and
 2. one residence, the total floor area of which is 90 m² or less;
 - ii. if the parcel is more than 40 ha, there will be:
 1. one residence, the total floor area of which is any size permitted under the ALCA; and
 2. one residence, the total floor area of which is 186 m² or less.

Permission of the Commission is required to *alter* the size of a residence constructed under this section of the ALR Use Regulation unless the alteration does not increase the total floor area of the residence beyond what is permitted as set out above. See the Section 12 “Glossary”, found at the end of this bulletin, for the definition of “*total floor area for a principal residence*” and “*total floor area of an additional 90 m² or 186 m² residence*”.

6. GRANDFATHERING PROVISIONS

A. Completing a Residential Construction Initiated by February 22, 2019

If by February 22, 2019 a landowner had already initiated construction of a residence in the ALR, in certain circumstances the owner may be able to complete that work without application to the Commission. In other circumstances, the work will not be able to proceed unless the Commission first approves an **application for a non-adhering residential use** made by the owner: ALCA, ss. 20.1(2), 25. See Section 11 “Applications for *Non-Adhering Residential Use*” later in this bulletin.

I. Unfinished Principal Residence

Total Floor Area of a Principal Residence of 500 m² or less

If the landowner is completing construction of an unfinished *principal residence* which will on completion have a total floor area of **500 m² or less** and is otherwise also compliant with the ALCA and regulations, the owner may complete that construction without applying to the Commission for permission to do so.

Total Floor Area of a Principal Residence of more than 500 m²

If the landowner is completing construction of an unfinished *principal residence* which will, if completed *as designed*, have a total floor area of **more than 500 m²**, the landowner may continue if:

- a) Where building permit *authorization* **is required** by local government bylaw or First Nation Government law
 - all required authorizations to *construct* the residence were granted before February 22, 2019 and construction of the foundation of the residence substantially began on or before November 5, 2019, AND
 - from the date construction of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry; OR
- b) Where building permit *authorization* **is NOT required** by local government bylaw or First Nation Government law

- if no authorizations to *construct* the residence are required, construction of the foundation of the residence had substantially begun before February 22, 2019; AND
- from the date construction of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry.

II. Unfinished Additional Residence

If the landowner is completing construction of a residence that, **if completed as designed**, will be an *additional residence*, the landowner may do so if:

a) Where building permit *authorization* **is required** by local government bylaw or First Nation Government law

- all required authorizations to *construct* the residence were granted before February 22, 2019 and construction of the foundation of the residence substantially began before February 22, 2019, AND
- from the date construction of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry; OR

b) Where building permit *authorization* **is NOT required** by local government bylaw or First Nation Government law

- if no authorizations to *construct* the residence are required, construction of the foundation of the residence had substantially begun before February 22, 2019; AND
- from the date construction of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry.

B. Completing Residential Alterations Initiated by February 22, 2019

If an owner wants to complete alterations to a residence on ALR land that had been initiated prior to February 22, 2019, the owner may do so without application to the Commission only in limited circumstances.

To “*alter*” means “(a) to *alter* the exterior of a structure so as to increase its size; (b) to move or *alter* the exterior walls or edges of a structure so as to change its siting”: ALCA, s. 1(1).

I. Completing Alterations to a Principal Residence

Total Floor Area of a Principal Residence of 500 m² or less

If the landowner is completing alterations to a *principal residence* that will not cause its total floor area to exceed **500 m²** and that will otherwise also be compliant with the ALCA and regulations, the landowner may complete those alterations without applying to the Commission for permission to do so.

Total Floor Area of a Principal Residence of more than 500 m²

Alterations that had already been commenced as of February 22, 2019 to a *principal residence* that, **if completed as designed**, will have a total floor area of more than 500 m², may be completed if:

a) Where building permit *authorization* **is required** by local government bylaw or First Nation Government law

- all required authorizations to *alter* the residence were granted before February 22, 2019 and construction of the foundation of the residence substantially began on or before November 5, 2019, AND
- from the date alteration of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry; OR

b) Where building permit *authorization* **is NOT required** by local government bylaw or First Nation Government law

- if no authorizations to *alter* the residence are required, construction of the foundation of the residence had substantially begun before February 22, 2019; AND
- from the date alteration of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry.

II. Completing Alterations to an Additional Residence

Alterations that had already been commenced as of February 22, 2019 to a residence in the ALR that, **if completed as designed**, will be an *additional residence*, may be completed if:

a) Where building permit *authorization* **is required** by local government bylaw or First Nation Government law

- all required authorizations to *alter* the residence were granted before February 22, 2019 and construction of the foundation of the residence substantially began before February 22, 2019, AND
- from the date alteration of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry; OR

b) Where building permit *authorization* **is NOT required** by local government bylaw or First Nation Government law

- if no authorizations to *alter* the residence are required, construction of the foundation of the residence had substantially begun before February 22, 2019; AND
- from the date alteration of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry.

C. New Alterations Initiated After February 22, 2019

Alterations that were not initiated by February 22, 2019 may also be undertaken in some circumstances on ALR land without application to the Commission.

An owner who wishes to *alter a residential structure* that existed on ALR land on February 22, 2019 but that (a) is an additional structure; or (b) is a *principal residence* with a total floor area of more than 500 m²; or (c) is of a size or is sited in contravention of a regulation, may do so in some circumstances. The owner may *alter* the structure without applying to the Commission **only** if the alteration will lead to no further contravention of the ALCA or regulations: ALCA, s. 20.2.

The Commission expects that the alterations undertaken in the context of the above paragraph would eliminate, or at least reduce or not worsen, any pre-existing contravention of the ALCA or the regulations. It does not expect that alterations would increase the size of the *residential structure* or initiate a *non-adhering residential use*; any such alterations should be the subject of an application to the Commission.

An owner who wishes to *alter a principal residence* that will remain no larger than 500 m² and that will otherwise also remain in compliance with the ALCA and regulations may also do so without application to the Commission.

D. Manufactured Home on ALR Land on or Before February 22, 2019

If on February 22, 2019, there was a manufactured home which was an *additional residence*, was constructed in accordance with all applicable enactments, and was used as a residence by a member of the immediate family of the owner of the land in the ALR, it may continue to be used as a residence in the ALR if the size and siting of the residence is not altered after February 22, 2019 unless:

- the alteration of the size and siting is permitted on application, OR
- the size of the manufactured home or the total area occupied by all residences and other *residential structures*, roads and service lines, and all agricultural land between them, as applicable, is not increased by the alteration.

Section 32 of the ALR Use Regulation is repealed effective December 31, 2021. However, pursuant to new ALR Use Regulation section 34.1, a manufactured home constructed before February 22, 2019 may still be used as a residence in the ALR after December 31, 2021 if the home meets the conditions set out in this section of this information bulletin. There is no right to replace a *residential structure* which is permitted due to a grandfathering exception. An application to the Commission for its approval is required to replace such a structure. See the “Replacing a Residence” section for more information.

E. Manufactured Home Constructed between July 4, 2019 and December 31, 2021

The use of agricultural land for an *additional residence* that is a manufactured home and that is not a *pre-existing residential structure*, as defined in the ALCA (See the “Glossary” section at the end of this bulletin for ease of reference), is permitted if **all** the following conditions are met:

- All required authorizations to locate the manufactured home on the agricultural land are granted before December 31, 2021;

- The manufactured home is constructed in accordance with all applicable enactments;
- On December 31, 2021, the home is 9 m or less in width; and
- On December 31, 2021, the manufactured home is used as a residence only by the owner or a person related to the owner.

If all of these conditions are met, the manufactured home may continue to be used as a residence in the ALR. The size and siting of the manufactured home must not be altered after December 31, 2021, unless the alteration of the size and siting is permitted by the Commission after an application.

For the purposes of the December 31, 2021 residency requirement noted above, the following persons are related to the owner: (a) the owner's parent, grandparent or great-grandparent, (b) the owner's sibling, (c) the owner's child, grandchild or great-grandchild, (d) the owner's spouse, or (e) the owner's spouse's parent.

There is no right to replace a *residential structure* which is permitted due to a "grandfathering" exception. An application to the Commission for its approval is required to replace such a structure. See the "Replacing a Residence" section for more information.

F. Single-Level Accommodation Constructed Above an Existing Building on the Farm on or before February 22, 2019

If on February 22, 2019 there was accommodation that had been constructed in accordance with all applicable enactments above an existing building on the farm and that had only a single level, it may continue to be used as a residence in the ALR if the size and siting of the residence is not altered after February 22, 2019 unless:

- the alteration of the size and siting is permitted on application, OR
- the total area occupied by all residences and other *residential structures*, roads and service lines, and all agricultural land between them, as applicable, is not increased by the alteration.

ALR Use Regulation, s. 32

Section 32 of the ALR Use Regulation has been repealed effective December 31, 2021. However, pursuant to the new ALR Use Regulation section 34.1, a single-level accommodation above an existing building on the farm that was constructed before February 22, 2019 may still be used as

a residence in the ALR if the home meets the conditions set out in ALR Use Regulation section 34.1 and summarized in this section of this information bulletin for ease of reference.

There is no right to replace a *residential structure* which is permitted due to a grandfathering exception. An application to the Commission for its approval is required to replace such a structure. See the “Replacing a Residence” section for more information.

G. Second Single Family Dwelling in Former Zone 2 (“Zone 2 Second SFD”) on or before February 22, 2019

Until February 22, 2019, land in the ALR was considered to be either in Zone 1 (the panel regions of the South Coast, Island and Okanagan panels) or Zone 2 (the panel regions of the Interior, North and Kootenay panels).

Prior to February 22, 2019, certain activities were permitted in Zone 2 that were not permitted in Zone 1. The term “**Zone 2 Second SFD**” is used in this bulletin to refer to a second single family dwelling in the area of the province that until February 22, 2019 was Zone 2, if the parcel was at least 50 ha in size and if the total area occupied by all residences and other *residential structures*, roads and service lines, and all land between them, was 4,000 m² or less.

If on February 22, 2019 there was a “**Zone 2 Second SFD**” on Zone 2 land in the ALR, constructed in accordance with all applicable enactments, the *Zone 2 Second SFD* may continue to be used as a residence in the ALR if the size and siting of the Zone 2 Extra Home is not altered after February 22, 2019 unless:

- the alteration of the size and siting is permitted on application, OR
- the total area occupied by all residences and other residential structures, roads and service lines, and all agricultural land between them, as applicable, is not increased by the alteration.

ALR Use Regulation, s. 32

Section 32 of the ALR Use Regulation has been repealed effective December 31, 2021. However, pursuant to the new ALR Use Regulation section 34.1, a second single family dwelling constructed before February 22, 2019 may still be used as a residence in the ALR if the home meets the conditions set out in ALR Use Regulation section 34.1 and summarized in this section of this information bulletin for ease of reference.

There is no right to replace a *residential structure* which is permitted due to a grandfathering exception. An application to the Commission for its approval is required to replace such a structure. See the “Replacing a Residence” section for more information.

7. REPLACING A RESIDENCE

The term “*construct*” includes “to replace a structure, 75% or more of which has been substantially damaged or destroyed”: ALCA, s. 1(1). In order to replace a structure, an owner must abide by the requirements in section 20.1 and, if applicable, section 20.2 of the ALCA.

A. Parcels on which there is only one residence

If an owner is replacing the only residence on a parcel in the ALR, the total floor area of the new residence must not be more than 500 m².

If an owner wants to reside in the only residence on the property (also known as the “principal residence”) while constructing a new residence to replace the *principal residence* an application to the Commission for its approval is required, unless the new residence complies with the “*additional residence*” permissions in s. 34.3 of the ALR Use Regulation. See the Section 12 “Glossary”, found at the end of this bulletin, for the definition of “*total floor area for a principal residence*” and “*total floor area of an additional 90 m² or 186 m² residence*”.

B. Parcels on which there is more than one residence

An application to the Commission, and Commission approval of that application, are required to replace residences which pre-date the ALR (that is, are older than December 21, 1972), residences approved by local government or First Nation Government under the former section 18 of the ALCA and its predecessors, residences permitted without application to the Commission under previous versions of the ALCA and regulations, and residences constructed in contravention of local zoning bylaws or the ALCA or regulations.

Whether an application is required to replace a residence that the Commission itself had previously approved on application may depend on the terms of that approval.

8. USE OF RESIDENCE IN ALR

Use of a residence located in the ALR is limited. Generally, it may be used only as a residence, subject to limited exceptions:

A. Secondary Suites

The use of land in the ALR for a secondary suite is permitted if there is one suite only, located in the *principal residence*: ALR Use Regulation, s. 31.

B. Limited Accommodation for Tourists

See the Commission's information bulletin called "Accommodation for Tourists" for more information. Strict conditions must be met for such use.

9. SOIL OR FILL FOR RESIDENTIAL CONSTRUCTION

Removing soil from or placing *fill* on ALR land is permitted for the construction or maintenance of a *principal residence* if the total area from which soil is removed or on which *fill* is placed is 1,000 m² or less. If the affected area is in a floodplain, an additional condition applies: the resulting elevation level must be consistent with applicable local government or First Nation Government requirements for flood protection: ALR Use Regulation, s. 35.

Removing soil from or placing *fill* on ALR land in connection with other residential uses (such as for the construction of an *additional residence*, whether or not the *additional residence* is permitted under the December 31, 2021 amendments to the ALR Use Regulation; alteration of a residence; construction of an accessory building, or where the area affected by a *principal residence* is greater than 1,000 m²) is not permitted. An owner of ALR land seeking to remove soil or place *fill* may submit a notice of intent along with payment of the required fee to the ALC's chief executive officer requesting approval: ALCA, s. 20.3. The landowner may also apply to the Commission for a *soil or fill use* under s. 25 of the ALCA.

The following types of *fill* are prohibited on ALR land (ALR Use Regulation, s. 36):

- construction or demolition waste (including masonry rubble, concrete, cement, rebar, drywall and wood waste);
- asphalt;
- glass;
- synthetic polymers;
- treated wood;
- unchipped lumber.

10. INFRASTRUCTURE NECESSARY FOR RESIDENTIAL USE

Subject to any limits and conditions set out in Part 4 and Part 5 of the ALR Use Regulation, the use of agricultural land to *construct*, maintain or operate the following is permitted:

(a) a structure, other than a *residential structure*, that is necessary for a residential use permitted under Part 4. See section 11 of this information bulletin for more information on accessory buildings.

(b) a driveway or utility necessary for a residential use permitted under this part: ALR Use Regulation, s. 30.

Removing soil from or placing *fill* on ALR land in connection with these uses however is not permitted. An owner of ALR land seeking to remove soil or place *fill* for such uses may submit a notice of intent along with payment of the required fee to the ALC's chief executive officer requesting approval: ALCA, s. 20.3. The landowner may also apply to the Commission for a *soil or fill use* under s. 25 of the ALCA. For more information on soil or fill use in the ALR see ALC Information Bulletin IB-07.

11. ACCESSORY BUILDINGS (GARAGES & STUDIOS, ETC.)

The Commission expects that landowners will minimize the land area occupied by residential uses on a parcel in order to preserve land for farm use. Accessory residential buildings, such as detached garages or studios, are only permitted by the Agricultural Land Reserve Use Regulation, BC Reg 30/2019 if they are necessary for residential use. The determination of whether an accessory building is necessary for residential use is the authority of the Commission and will depend on the facts of each individual property.

Accessory residential buildings must comply with the size limits set out in the ALCA and cannot be used to circumvent the size limits on principal or additional residences in the ALCA and the regulations. Therefore, floor areas of detached accessory residential buildings will count towards the total floor area of the principal or additional residence (as applicable) as though those accessory buildings were attached to the same structure as the house.

12. APPLICATIONS FOR NON-ADHERING RESIDENTIAL USE

An owner may apply to the Commission for permission under section 25 of the ALCA for a *non-adhering residential use*: ALCA, s. 20.1(2). A "***non-adhering residential use***" means "any of the

following: (a) an *additional residence*; (b) a *principal residence* having a total floor area that is more than 500 m²; (c) a use of a *residential structure* that contravenes the regulations”: ALCA, s. 1(1).

For more information on making applications to the Commission, please see the Commission’s website, at www.alc.gov.bc.ca/alc/content/applications-and-decisions.

Section 25(1) of the ALCA provides that on receiving a use application the Commission normally may:

- refuse permission for the use applied for,
- grant permission, with or without limits or conditions, for the use applied for, or
- grant permission for an alternative use or subdivision, with or without limits or conditions, as applicable.

With respect to an application for a *non-adhering residential use*, the Commission (a) must consider the prescribed criteria, if any, (b) must not grant permission for an *additional residence* unless the *additional residence* is necessary for a farm use; and (c) must reject the application if required by the regulations to do so: ALCA, s. 25(1.1).

Examples of considerations that the Commission may take into account in determining a use application are found here: www.alc.gov.bc.ca/alc/content/applications-and-decisions/what-the-commission-considers

13. GLOSSARY

The following key definitions are relevant to this information bulletin:

“additional residence” means “a residence on a parcel of agricultural land, other than the *principal residence*”: ALCA, s. 1(1)

“alter” means “the following: (a) to alter the exterior of a structure so as to increase its size; (b) to move or *alter* the exterior walls or edges of a structure so as to change its siting”: ALCA, s. 1(1)

“as designed” means as stated or shown in (a) a design, proposal or other plan approved under or accepted in support of an *authorization*, or (b) a design or plan finalized, before the date this section comes into force, by an architect or engineer or, if none, the designer of the residence, if no authorizations are needed to *construct* or *alter* the residence: ALCA, s. 20.2

“authorization” means a permit or other authorization, issued under an enactment, to *construct* or *alter* a residence: ALCA, s. 20.2

“basement” means a space below the first floor with a vertical height of more than 1.8 metres and having more than one-half its vertical height below the average finished grade at the perimeter of a building, pursuant to Commission Resolution No. 094N/2022, that does not extend beyond the outer surface of the exterior wall of the first floor.

“construct” means “the following: (a) to build a new structure; (b) to place on land a new structure that is fully or partially pre-fabricated; (c) to replace a structure, 75% or more of which has been substantially damaged or destroyed”: ALCA, s. 1(1)

“crawl space” means an unfinished space below the first floor with a vertical height of less than 1.8 metres pursuant to Commission Resolution No. 094N/2022.

“farm use” means “an occupation or use of agricultural land for (i) farming land, plants, mushrooms, truffles or animals, (ii) a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*, or (iii) a purpose designated as a farm use by regulation”, but “farm use” does “not include a residential use or a *soil or fill use*”: ALCA, s. 1(1)

“fill” means “any material brought onto agricultural land other than materials exempted by regulation”: ALCA, s. 1(1)

“non-adhering residential use” means “any of the following: (a) an *additional residence*; (b) a *principal residence* having a total floor area that is more than 500 m²; (c) a use of a *residential structure* that contravenes the regulations”: ALCA, s. 1(1)

“non-farm use” means “a use of agricultural land other than a *farm use*, a residential use or a *soil or fill use*”: ALCA, s. 1(1)

“pre-existing residential structure” means “a *residential structure* that exists on agricultural land on the date this section comes into force [February 22, 2019], and (a) is an *additional residence*, (b) is a *principal residence* having a total floor area of more than 500 m², or (c) is of a size or is sited in contravention of a regulation”: ALCA, s. 20.2

“prescribed residential structure” is either a “structure” that, or a “vehicle” that, is “used, whether permanently or temporarily, to provide or in connection with providing accommodation as described in [Part 4 of the ALR Use Regulation]”: ALR Use Regulation, s. 29

“principal residence” means “the residence permitted under section 20.1(1)(a)”: ALCA, s. 1(1)

“residential structure” means “a structure used, during all or part of the year and whether fully or partially, as (a) a residence, (b) if prescribed, accommodation, or (c) if prescribed, in relation to a residence or accommodation”: ALCA, s. 1(1)

“residential use” means “a use of agricultural land for a *residential structure*” but “does not include a *farm use* or a *soil or fill use*”: ALCA, s. 1(1)

“soil or fill use” means “the removal of soil from, or the placement of *fill* on, agricultural land” but “does not include a *farm use* or a residential use”: ALCA, s. 1(1)

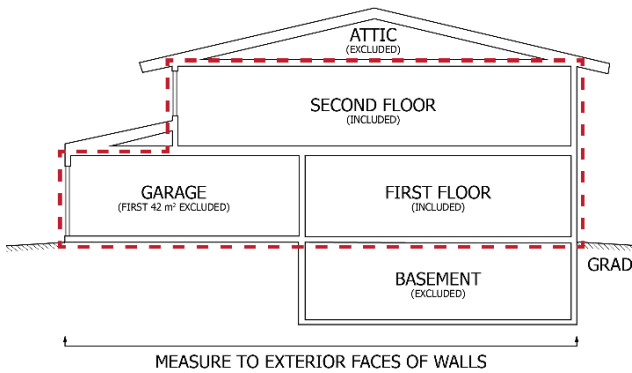
“total floor area of a principal residence” means, for purposes of the ALCA and ALR Use Regulation and pursuant to Commission Resolution No. 056N-2019, the total area of all floors measured to the outer surface of the exterior walls, including corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies, enclosed porches or verandas, and excluding:

- (a) attached garages and unenclosed carports to a cumulative maximum of 42 m²;
- (b) basements and crawl spaces (Commission Resolution No. 094N/2022); and
- (c) attics, with attic meaning the unfinished space between the roof and the ceiling of the top storey of a building or between a partial wall and a sloping roof. This exception only applies if this unfinished space is created by the use of roof trusses. The unfinished attic space created by the use of attic trusses or rafters in the construction of a residence is **not excluded from the calculation of total floor area** (Commission Resolution No. 095N/2022).

“total floor area of an additional 90 m² or 186 m² residence” of 90 or 186 m² permitted in the ALR Use Regulation, pursuant to Commission Resolution No. 086N/2021, is measured to the outer surface of exterior walls including corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies, enclosed porches or verandas, *basements*, attached garages and unenclosed carports (Commission Resolution No. 096N/2022) as part of the total floor area, with the following exceptions:

- (a) attached garages are excluded from the total floor area calculation if the *additional residence* occupies the second storey above a one storey garage, and
- (b) attics, with attic meaning the unfinished space between the roof and the ceiling of the top storey of a building or between a partial wall and a sloping roof. This exception only applies if this unfinished space is created by the use of roof trusses. The unfinished attic space created by the use of attic trusses or rafters in the construction of a residence is **not excluded from the calculation of total floor area** (Commission Resolution No. 095N/2022), and
- (c) crawl spaces (Commission Resolution No. 094N/2022).

Principal Total Floor Area Illustration



Principal Basement Illustration

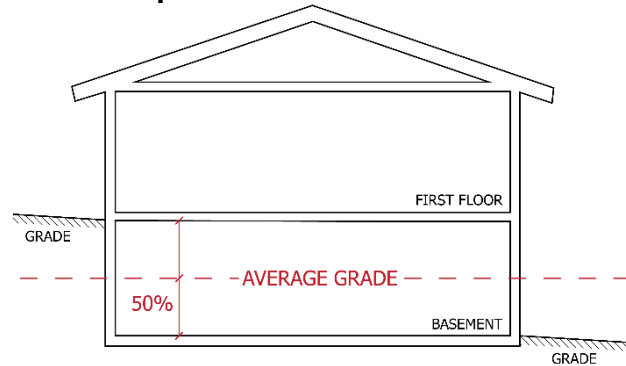


Illustration of roof truss



Illustration of attic truss

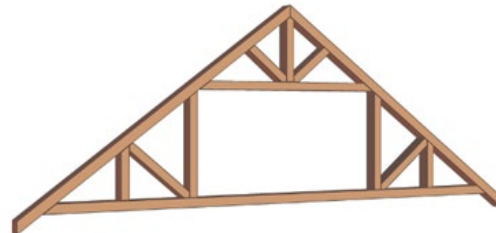
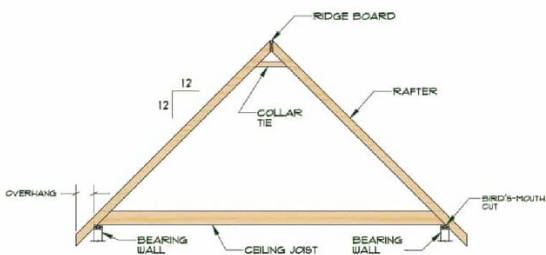


Illustration of rafters



“unfinished pre-existing residence” see the definition at s. 20.2 of the ALCA and in the body of the information bulletin above

“use or subdivision application” means “an application for permission made under any of the following: (a) section 20 (2) for a *non-farm use*; (b) section 20.1 (2) (a) for a *non-adhering residential use*; (c) section 20.3 (5) for a *soil or fill use*; (d) section 21 (2) for subdivision”: ALCA, s. 1(1)

“Zone 2 Second SFD” means a second single family dwelling in the area of the province that until February 22, 2019 was Zone 2, but only if the parcel was at least 50 ha in size and if the total area occupied by all residences and other *residential structures*, roads and service lines, and all land between them, was 4,000 m² or less.